CRIMINAL CAUSE FOR MOTION HEARING
BEFORE JUDGE: HURLEY, J. DATE: AUGUST 11, 2005 TIME: 1:30M-2:15
DOCKET NUMBER: <u>CR-05-0237</u> TITLE: <u>USA V. McCABE, et. al.</u>
DEFT. NAME: <u>JAMES MAINELLO</u> DFT. #: <u>2</u> <u>X</u> PRESENT, NOT PRESENT, X IN CUSTODY, ON BAIL
ATTY FOR DEFT.: ANTHONY LA PINTA X CJA PRESENT, NOT PRESENT RET PDA
A.U.S.A.: JAMES MISKIEWICZ & JAMES McGOVERN DEPUTY CLERK: TRISH BEST
COURT REPORTER(S) OR ESR OPERATOR: PERRY AUERBACH
X CASE CALLED. KCE
$\underline{\mathbf{X}}$ MOTION CONFERENCE HELD ON <u>DEFENDANT 'S</u> MOTION TO SEVER JAMES MAINELLO FROM COUNT 1 OF THE SUPERSEDING INDICTMENT.
<u>X</u> ARGUMENTS HEARD _ MOTION GRANTED. <u>X</u> MOTION DENIED DECISION RESERVED.
X DECISION ENTERED INTO THE RECORD.
FOR THE REASONS STATED ON THE RECORD THE COURT DENIES DEFENDANT'S MOTION TO SEVER DEFENDANT HAS NOT SHOWN THAT A SPECIFIC TRIAL RIGHT WILL BE PREJUDICED BY DELAYING THE TRIAL DATE; NOR HAS DEFENDANT SHOWN THAT A DELAY WILL CAUSE IRREPARABLE HARM IF A SEVERANCE IS NOT GRANTED.
THE JURY SELECTION AND TRAIL SCHEDULED FOR MONDAY AUGUST 15, 2005 IS CANCELLED. MAGISTRATE MICHAEL ORENSTEIN HAS BEEN ADVISED OF TRIAL CANCELLATION.
X STATUS CONFERENCE SET FOR AUGUST 24, 2005 AT 11:30 AM.
THE GOVERNMENT IS TO SUBMIT LETTER BRIEF IN SUPPORT OF IT'S POSITION THAT THE CASE SHOULD BE DEEMED COMPLEX BY AUGUST 19, 2005; DEFENDANT'S RESPONSE BY AUGUST 23,2005 THE MATTER OF COMPLEXITY WILL BE ADDRESSED AT THE 8/24 CONFERENCE.

X DEFT MAINELLO REMAIN IN CUSTODY.

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